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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,404	08/07/2001	Colin Oloman	6510-PA04D	6879

27111 7590 11/17/2003

BROWN, MARTIN, HALLER & MCCLAIN LLP  
1660 UNION STREET  
SAN DIEGO, CA 92101-2926

EXAMINER

NICOLAS, WESLEY A

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/924,404

Applicant(s)

OLOMAN ET AL.

Examiner

Wesley A. Nicolas

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/353,245.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 6) ☐ Other:

### DETAILED ACTION

This is in response to the Preliminary Amendment submitted August 7, 2001.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 37 is currently pending in this application.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 37 is rejected under 35 U.S.C. 102(b) as being anticipated by Bolick, II et al. ("Bolick") (U.S. 4,992,147).

Claim 37 is rejected because Bolick teaches a housing for an electrolytic cell comprising:

- an anode (Figs. 1 and 3, numeral 54);
- a cathode (Figs. 1 and 3, numeral 18); and
- an electrolyte biased together in electrical contact (col. 3, "electrolyte");
- the electrolyte being contained by a flexible membrane adapted to accommodate compression of the electrolyte (Fig. 3, numeral 40; col. 3 and col. 6, e.g. "flexible membrane"),

Art Unit: 1742

- the housing having an opening to permit passage of gas evolved from the electrolyte during electrolysis (Fig. 1, numerals 28 and 56).

3. Claim 37 is rejected under 35 U.S.C. 102(b) as being anticipated by Joshi et al. (5,567,287).

Claim 37 is rejected because Joshi et al. teach a housing for an electrolytic cell comprising:

- an anode (Fig. 6, numeral 2);
- a cathode (Fig. 6, numeral 5); and
- an electrolyte biased together in electrical contact (Fig. 4, numeral 4);
- the electrolyte being contained by a flexible membrane adapted to accommodate compression of the electrolyte (Fig. 6, numeral 9),
- the housing having an opening to permit passage of gas evolved from the electrolyte during electrolysis (Title: "Gas Releasing..." and Fig. 6, numeral 3).

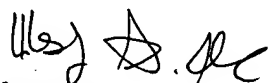
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesley Nicolas whose telephone number is (703)305-0082. The examiner can normally be reached on Mon.-Thurs. from 7am to 5pm.

The Supervisory Primary Examiner for this Art Unit is Roy King whose telephone number is (703) 308-1146.

The fax number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

  
**WESLEY A. NICOLAS**  
**PATENT EXAMINER**

November 10, 2003